

UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT

UNITED STATES OF AMERICA :  
plaintiff, :  
 :  
v. : Case No. 18-cr-30 (AVC)  
 :  
RANDY TEXIDOR :  
defendant. :

**RULING ON THE DEFENDANT'S MOTION TO SUPPRESS PHYSICAL EVIDENCE  
AND STATEMENTS (doc. no. 70)**

The second superseding indictment in this case charges the defendant with thirteen counts of possession with intent to distribute, and distribution of heroin, and 40 grams or more of fentanyl in violation of 21 U.S.C. §§ 841(a)(1) and 841(b)(1)(B); conspiracy to possess with intent to distribute, and to distribute, heroin and fentanyl in violation of 21 U.S.C. § 846; possession of a firearm in furtherance of a drug trafficking crime in violation of 21 U.S.C. § 924(c); aiding and abetting in violation of 18 U.S.C. § 2; and criminal forfeiture in violation of 21 U.S.C. § 853. The defendant, Randy Texidor (hereinafter "Texidor"), has filed the within motion to suppress physical evidence seized from 57 Wadsworth Street and 305 Fieldstone Crossing, in addition to all post-arrest statements.

For the following reasons, Texidor's motion to suppress physical evidence and statements (doc no. 70) is DENIED.

**FACTS**

The indictment and relevant memoranda provides the following relevant facts:

On August 22, 2017, a DEA confidential source (hereinafter "CS") and Jose Carrasquillo<sup>1</sup> (hereinafter "Carrasquillo") met to transact a multi-kilogram heroin deal.

The CS told Carrasquillo that he would return shortly with the product after confirming "with agents that the money was in the black Acura." Subsequently, agents stopped the black Acura and found that the driver, Dwayne Thompson (hereinafter "Thompson"), "was armed with a handgun that was secured in his front waistband. Agents recovered \$126,000 from a bag in the rear of the vehicle, enough for three kilograms of heroin at the agreed upon price of \$42,000 per kilogram."

The CS reported that Carrasquillo had associates located at the nearby Mr. Sparkle carwash. Randy Texidor and Kyle Siekierski were the only occupants at the wash bay with a gray Acura. "Investigators noted that neither the gray Acura, nor the ground around it, was wet indicating that it had not been recently washed."

Investigators approached Texidor and Siekierski and identified themselves as law enforcement. "Texidor immediately

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<sup>1</sup>Carrasquillo is charged in a separate indictment.

indicated that he had a firearm in the car and investigators were able to look into the vehicle and observe a handgun in the center cup holder of the vehicle." Texidor possessed a valid state of Connecticut pistol permit.

When asked about their presence at the carwash, Texidor and Siekierski provided conflicting stories. Siekierski stated that he and Texidor worked at Blackout Tint and Vinyl in Wethersfield. Blackout Tint and Vinyl is a business owned by Carrasquillo and Thompson. Texidor denied that he worked there.

"Based on information that both men were involved in a large-scale narcotics deal, and one of them was in possession of a firearm, Texidor and Siekierski were detained in handcuffs while investigators continued their investigation."

Texidor and Siekierski were placed under arrest. "Siekierski was later found in possession of a bag [that] contained a needle and other paraphernalia commonly used to ingest heroin." Law enforcement transported Texidor and Siekierski to DEA HRO.

Law enforcement brought Texidor into an interview room and advised him of his rights pursuant to Miranda v. Arizona, 384 U.S. 436 (1966). Texidor signed and initialed DEA Form 13 (DEA *Miranda* warning form). During the recorded interview, Texidor stated "it doesn't even matter" when asked how he knew Siekierski. When asked if he knew about Carrasquillo's

transaction, Texidor repeated "that he was only washing his car and that he liked the soap of that particular carwash." Texidor later told investigators that he did not want to answer any more questions. The interview ended and Texidor "was released on bond."

In October 2017, Hartford police received information from a confidential source that Texidor had distributed significant quantities of heroin. On eight separate occasions, an FBI confidential source (hereinafter "CHS") purchased escalating quantities of heroin and/or fentanyl from Texidor and on four occasions from Raymond Juardo (hereinafter "Juardo"). The evidence revealed that Texidor and Juardo worked together to sell heroin/fentanyl; that they shared a drug phone which the CHS used to make contact; and that they processed, packaged, and stored heroin at on the third floor of 57 Wadsworth Street in Hartford, Connecticut.

From October 2017 through December 2017, the FBI CHS negotiated the purchase of heroin and fentanyl on multiple occasions.

On February 12, 2018, United States Magistrate Judge Donna F. Martinez authorized a search warrant for the third floor of 57 Wadsworth Street and arrest warrants for Texidor and Juardo.

On February 13, 2018, members of the FBI Safe Streets Task Force executed the search and arrest warrants.

Once law enforcement arrived at 57 Wadsworth Street, Texidor's father identified Texidor's room on the third floor. There, law enforcement seized the following evidence: 505 bags of suspected heroin/fentanyl behind a couch; a Bersa .380 caliber pistol under the couch cushion with a loaded magazine; \$5,981 in U.S. currency concealed in the same couch; various drug packaging paraphernalia in a closet; a lunch bag containing 92.4 grams of fentanyl; 23.8 grams of heroin in the bathroom cabinet; drug packaging and paraphernalia with residue quantities of fentanyl, cocaine, heroin and morphine found in the common room. Law enforcement also found approximately 26 grams of quinine, a substance commonly used as a cutting agent when processing fentanyl and heroin.

On February 13, 2018, law enforcement located and arrested Texidor at 305 Fieldstone Crossing in Berlin, Connecticut. Law enforcement escorted and placed Texidor in the rear of an FBI vehicle and advised Texidor of his *Miranda* rights. Texidor stated that he understood his rights and that the agents would not find anything illegal at that location.

Texidor told [Special Agent Medina] he had nothing else to say and "was ready to be brought [to] the federal courthouse."

Law enforcement simultaneously contacted Desiree Barnes, (hereinafter "Barnes"), the principal resident of 305 Fieldstone Crossing. Barnes provided identification to investigators to

confirm that she resided at 305 Fieldstone Crossing. Barnes indicated that she lived there with her two children and only recently provided Texidor with a key to the apartment. Barnes "freely stated that investigators could search the residence" after law enforcement asked whether the residence contained any illegal substances. A search of the home resulted in the recovery of paperwork from firearm manufacturer Smith & Wesson, a gun lock, box of ammunition, and a gun cleaning kit.

### **DISCUSSION**

#### **I. Suppression of Statements**

Texidor first argues that "the statements [he] made while under arrest [on August 22, 2017] were the result of custodial interrogation and procured without the benefit of *Miranda* warnings" in violation of the United States Constitution.

The government responds that "Texidor's motion is lacking in detail." Specifically, it argues that "[c]ontrary to his claim, however, Texidor was given his *Miranda* warnings."

It is well established that when an individual is taken into custody, "he must be warned prior to any questioning that he has the right to remain silent, that anything he says can be used against him in a court of law, that he has the right to the presence of an attorney, and that if he cannot afford an attorney one will be appointed for him prior to any questioning if he so desires." Miranda v. Arizona, 384 U.S. 436, 479

(1966). "The Miranda rule and its requirements are met if a suspect receives adequate Miranda warnings, understands them, and has an opportunity to invoke the rights before giving answers or admissions." Berghuis v. Thompkins, 560 U.S. 370, 387 (2010). "The defendant may waive effectuation of these rights, provided the waiver is made voluntarily, knowingly, and intelligently." Miranda, 384 U.S. 436, 444.

In evaluating the voluntariness of confessions, the court looks at "the totality of the circumstances in which they were given to determine whether the government agents' conduct was such as to overbear [a defendant's] will to resist and bring about confessions not freely self-determined." United States v. Kaba, 999 F.2d 47, 51 (2d Cir. 1993) (internal quotations omitted). Factors a district court should weigh in this analysis include "the characteristics of the accused, such as his experience, background, education; the conditions of the interrogation; and the conduct of law enforcement officials." Nelson v. Walker, 121 F.3d 828, 833 (2d Cir. 1997). When a defendant challenges the voluntariness of a statement, the government bears the burden of establishing by a preponderance of the evidence that the defendant's statements were truly the product of "free choice." Colorado v. Connelly, 479 U.S. 157, 168-69 (1986). See also United States v. Anderson, 929 F.2d 96 (2d Cir. 1991).

"The [constitution] permits brief investigative stops . . . when a law enforcement officer has a particularized and objective basis for suspecting the particular person stopped of criminal activity." Navarette v. California, 134 S.Ct. 1683, 1687 (2014) (citation omitted; internal quotation marks omitted).

The court concludes that Texidor received, understood, and freely waived his *Miranda* rights. According to Exhibit A, Texidor received a *Miranda* warning after his arrest. Upon arriving at the DEA HRO, Texidor initialed and signed the DEA Form 13 waiving his *Miranda* rights. After willingly and voluntarily answering some questions from law enforcement authorities, Texidor stated that he no longer wished to answer questions and the interview ended.

Although unclear in Texidor's motion, the court recognizes that Texidor may be challenging the initial exchange with law enforcement at the carwash, prior to his arrest.

A confidential source alerted law enforcement that Carrasquillo had associates located across the street at the carwash. With this information, law enforcement "ha[d] a particularized and objective basis for suspecting [Texidor] of criminal activity," Navarette, 134 S.Ct. at 1687, which permitted them to conduct a brief investigative stop without a *Miranda* warning. Id.



## **II. Suppression of Physical Evidence**

### **a. 305 Fieldstone Crossing**

Texidor next argues that he "was placed under arrest and was not given *Miranda* warnings, and had multiple law enforcement officers surrounding him at the time someone other than him gave consent to search [the property]."

The government responds that Desiree Barnes,<sup>2</sup> "the primary resident of the apartment, provided verbal and written consent to search the entire apartment, including the bedroom she was sharing with Texidor."

"The Fourth Amendment recognizes a valid warrantless entry and search of premises when police obtain the voluntary consent of an occupant who shares, or is reasonably believed to share, authority over the area in common with a co-occupant who later objects to the use of evidence so obtained." Georgia v. Randolph, 547 U.S. 103, 106 (2006).<sup>3</sup>

The court concludes that law enforcement executed a "valid warrantless entry and search of the premises" Id. Government exhibits "C" and "D" reveal that Barnes is the owner/primary resident of 305 Fieldstone Crossing and that she provided oral

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<sup>2</sup> Barnes is the mother of Texidor's children.

<sup>3</sup> In Georgia v. Randolph, the Court held that "a physically present co-occupant's stated refusal to permit entry prevails, rendering the warrantless search unreasonable and invalid to him." Id., at 106. The record in this case, however, reveals that Texidor did not expressly refuse to consent at the time of the search.

and written consent to law enforcement to search the residence she shared with Texidor.

**b. 57 Wadsworth Street**

Texidor next argues that "the search at 57 Wadsworth Street 3rd Floor, Hartford [Connecticut] clearly went into an open area [of third floor] which was not adequately described in the Search Warrant as required by the Fourth Amendment standards."

The government responds that "the legal basis for [Texidor's claim] is at best perplexing, and at worst deeply flawed." Specifically, the government avers that "Texidor glosses over that the valid constitutional basis for the search of the residence was the federal search warrant."

"[T]he Fourth Amendment protects against 'wide-ranging exploratory searches' unsupported by probable cause, by mandating that a search warrant describe with particularity the place to be searched and the persons or things to be seized." United States v. Rosa, 626 F.3d 56, 61 (2d Cir. 2010) (citations omitted). However, "inaccuracies or ambiguities in a warrant do not necessarily render a warrant invalid under the Fourth Amendment." United States v. Voustianiouk, 685 F.3d 206, 212 (2d Cir. 2012). Moreover, "[e]very statement in a warrant affidavit does not have to be true." United States v. Canfield, 212 F.3d 713, 717 (2d Cir. 2000) (citation omitted). "The ultimate inquiry is

whether, after putting aside erroneous information and material omissions, there remains a residue of independent and lawful information sufficient to support probable cause." Id. at 718 (citation omitted; internal quotation marks omitted).

On February 12, 2018, United States Magistrate Judge Donna F. Martinez signed a search warrant for the entire "third floor" of 57 Wadsworth Street based on probable cause. The court concludes that the warrant "describe[d] with particularity the place to be searched and the persons or things to be seized." United States v. Rosa, 626 F.3d at 61. Law enforcement executed this valid federal search warrant and all evidence obtained came from the third floor of 57 Wadsworth Street.

#### **CONCLUSION**

For the reasons stated above, Texidor's motion to suppress physical evidence and statements (doc no. 70) is hereby DENIED.

It is so ordered this 28th day of March 2019, at Hartford, Connecticut.

\_\_\_\_\_/S/ Covello\_\_\_\_\_  
Alfred V. Covello  
United States District Judge